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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,832	01/21/2004	David M. Anderson	200309415-1	4079
22879	7590	09/20/2006	EXAMINER	
HEWLETT PACKARD COMPANY P O BOX 272400, 3404 E. HARMONY ROAD INTELLECTUAL PROPERTY ADMINISTRATION FORT COLLINS, CO 80527-2400			COUGHLAN, PETER D	
			ART UNIT	PAPER NUMBER
			2129	

DATE MAILED: 09/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/761,832

Applicant(s)

ANDERSON ET AL.

Examiner

Peter Coughlan

Art Unit

2129

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 31 August 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


DAVID VINCENT
ADVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: 'Speculative costs' of applicant is addressed in the abstract and is equivalent to 'circuit elements changing their parameters'. Higuchi is a probabilistic search method for circuit design and it compares a current design with a proposed design. Mapping to applicant's invention 'speculative cost' of applicant is equivalent to the proposed design of Higuchi.

Speculative costs is demonstrated by Higuchi (C10:41-67). The analyzer 9 processes the output of the circuit. This is the speculative costs of the new circuit. This is compared to a 'designated specification' within the setting circuit 8. The two costs in Higuchi view is the cost of the new circuit compared to the 'designated specification' cost. 'Postponing validation' of applicant is equivalent to 'continued at least for a predetermined period' of Higuchi. Higuchi also takes into account that a solution cannot be found and stops the infinite loop.

'Calculating different costs' has been explained in paragraph 2.

'Speculative costs' is a value only. 'Speculative costs' is comprised of 'incremental cost' which is a value only as well. The small changes in the 'circuit elements' is equivalent to the 'incremental cost' of applicant. 'Cost effect' is the difference of costs between two circuit designs. This result can be used in optimizing.

Incremental cost function on a plurality of speculative chromosomes to generate a plurality of speculative costs for each of a plurality of speculative chromosomes, the incremental cost function determines a speculative cost by approximating a cost effect of an incremental change in a value set of a speculative chromosome relative to a parent chromosome and a cost associated with the parent chromosome. 'Incremental' of applicant is equivalent to 'adjusting' of Higuchi. By determining the cost of the adjustment one is calculating the 'incremental cost' of the adjustment. All determinations of cost are performed by the analyzer 9 of Higuchi. 'Repeating execution' of applicant is equivalent to 'previous loop' of Higuchi (Higuchi, C28:37-51).

'Validation' of applicant is equivalent to 'judgment in stepS23' of Higuchi. If applicants states that the invention has nested validation criteria within another validation criteria, then the Examiner has the ability to view one Higuchi nested within another Higuchi.

Incremental cost is covered in paragraph 5

Validation is covered in paragraph 6. Two different cost are addressed in paragraph 2.

'A speculation count' is a counter which has some value. 'Time' of Savitch is a counter that also has a value. 'Predetermined validation criteria' is a 'if statement' of Savitch. The 'if statement' compares at least 2 values. The two values are from Higuchi which are 'real costs' and 'speculative cost'. The 'if statement' can compare two values of the same type. 'Cost difference' is a comparison. 'Exceeding a predetermined limit' is a comparison. 'Exceeding an execution time limit' is a comparison. 'Speculative chromosome generation count exceeding a predetermined cost change limit' is a comparison.

Applicant states that in claim 12, the parents and children costs are generated with two different cost functions. Claim 12 only states the generation of a single function, the 'incremental cost function.'

Applicant states that in claim 24 there are two different costs for one speculative chromosome. Claim 24 states that there is a determination for only the 'real cost' on at least one speculative chromosome. There is no mention of a second 'cost'.

Choo was used to illustrate the convergence characteristics of a genetic algorithm which is stated in claim 8.

The Examiner see this application of a 'if statement' nested inside a 'do loop' The comparison nature of the 'if statement' is that of a previous circuit design to that of a modified circuit design. Comparing circuit design is illustrated with Higuchi. Savitch is a basic programming text which illustrates the components of comparison and the fact they can be used within any domain. Nested 'if statements' are also not a novelty. Recursive 'if statements' and designs are also common, although not mentioned within the application.

Prosecution of application 10761832 is closed with Final Office Action.